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August 27, 2008

Via ECF Only

The Hon. Stephen C. Robinson
U.S. District Court
300 Quarropas Street
White Plains, NY 10601

Re: Patrick Fagan v. NCO Financial Systems, Inc. et al.
Case No.: 08-Curriculum Vitae-6208
Our File No.: Nyny-27587

Dear Judge Robinson:

This letter is in response to plaintiff's August 22, 2008 letter wherein Shmuel Klein, Esq. wrote to your Honor and enclosed two proposed discovery scheduling orders.

I would like to bring to the Court's attention that I tried to contact Mr. Klein on several occasions prior to August 22nd and at no time did he return my phone call. He had his paralegal call the day before after I had sent a fax reminding him that we had to file a proposed scheduling order by the 22nd. I specifically told his paralegal that I wanted to discuss the matter with him when the paralegal responded with a proposal for discovery put forth by Mr. Klein.

I wish to point out to the Court that at no time was there any conversation between Mr. Klein and the undersigned with regards to the discovery schedule. I attach herewith a proposed discovery schedule which calls for the completion of all discovery by April 24, 2009. The proposed schedule that Mr. Klein filed which purports to be NCO's proposed schedule, is incorrect in that it has interrogatories to be served no later than April 24, 2009 and first request for production documents to be served no later than April 25, 2009. The actual dates that NCO would propose for those two items would be January 30, 2009 as reflected in the attached proposed schedule.

With regards to Dayle M. Van Hoose, Esq., a Florida attorney who will be filing a Pro Hac Vice Application, I trust that the Court will find Mr. Klein's objection and suggestion that NCO retain counsel who is not planning to give birth as offensive as I do.

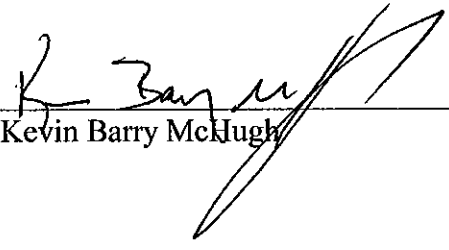
The law firm of Sessions Fishman Nathan & Israel is long-time counsel to NCO Financial Systems and I have acted as local counsel for their cases for quite some time.

NCO Financial Systems, Inc.'s position is that a discovery period of six (6) months is more than reasonable.

Respectfully submitted,

THE LAW OFFICES OF EDWARD GARFINKEL

By:


Kevin Barry McHugh

KBM/csa

Enclosures

cc: **Via ECF Only**
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PATRICK FAGAN,

Plaintiff,

v.

NCO FINANCIAL SYSTEMS, INC.,
ASSOCIATES NATIONAL BANK,
MBNA BANK,

Defendants.
-----X

**CIVIL CASE DISCOVERY PLAN
AND SCHEDULING ORDER**

Case No.: 7:08-cv-06208-SCR

The following Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel for the parties, pursuant to Rule 26(f) and 16 of the Federal Rules of Civil Procedure.

The case is to be tried to a jury.

Joinder of additional parties must be accomplished by **January 30, 2009**.

Amended pleadings may be filed until **January 30, 2009**.

Discovery:

1. Interrogatories are to be served by all counsel no later than **January 30, 2009**, and responses to such interrogatories shall be served within thirty (30) days thereafter. The provisions of Local Civil Rule 33.3 shall not apply to this case.
2. First request for production of documents, if any, to be served no later than **January 30, 2009**.
3. Depositions to be completed by **April 24, 2009**.
 - a. Unless counsel agree otherwise or the Court so orders, depositions are not to be held until all parties have responded to any first requests for production of documents.
 - b. Depositions shall proceed concurrently.

- c. Whenever possible unless counsel agree otherwise or the Court so orders, nonparty depositions shall follow party depositions.
4. Any further interrogatories, including expert interrogatories, to be served no later than **March 24, 2009**.
5. Requests to Admit, if any, to be served no later than **March 24, 2008**.
6. Additional provisions relating to discovery agreed upon by counsel for the parties (are) (are not) attached and made a part hereof.
7. All discovery is to be complete by **April 24, 2008**.

Initial Case Management Conference **October 24, 2008 at 10:00 a.m.**

Joint Pretrial Order is required only if counsel for all parties agree that it is desirable, or the Court so orders.

This case has been designated to the Hon. Lisa Margaret Smith, United States Magistrate Judge, at White Plains for discovery disputes if the Court is "unavailable" and for trial under 28 U.S.C. § 636(c) if counsel execute their consent in writing.

Unless otherwise ordered by the Court, the parties are expected to commence discovery upon the receipt of this signed Scheduling Order.

Strict compliance with the trial readiness date will be required. This Plan and Order may not be changed without leave of the Court, except that upon signing a Consent for Trial Before a United States Magistrate Judge, the Magistrate Judge will establish an agreed date certain for trial and will amend this Plan and Order to provide for trial readiness consistent with that agreed date.

White Plains, New York

SO ORDERED

Dated:

Stephen C. Robinson U.S.D.J.